

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

ROZELL EVANS,)
vs.)
Plaintiff,)
vs.) No. Civ-08-027-FHS
JUSTIN JONES, and CHARLES)
PEARSON,)
Defendants.)

ORDER

Before the court for its consideration is the defendant Charles Pearson's Motion to Dismiss and Motion to Dismiss/Motion for Summary Judgment for defendant Justin Jones. The court grants the motions for the following reasons.

Plaintiff filed his Complaint with this court on January 23, 2008. On January 28, 2008, plaintiff filed a motion to proceed in Forma Pauperis which was granted on January 29, 2008. On March 31, 2008, defendants filed a motion to stay proceedings and Request for order requiring Special Report. This motion was granted on April 2, 2008. On May 29, 2008, defendant Charles Pearson filed a motion to dismiss and brief in support. On this same date, defendant Justin Jones also filed a motion to dismiss/motion for summary judgment. Plaintiff failed to respond to either motion. On August 6, 2008, this court entered a minute order requesting the plaintiff to show cause as to why these motions should not be granted for plaintiff's failure to respond. Plaintiff was ordered to show cause by August 27, 2008. This order was sent to plaintiff at the Lexington Reception and Acceptance Center in Lexington, Oklahoma. This was the address on record for plaintiff. Upon noticing defendants had sent a copy of their motions to plaintiff at the

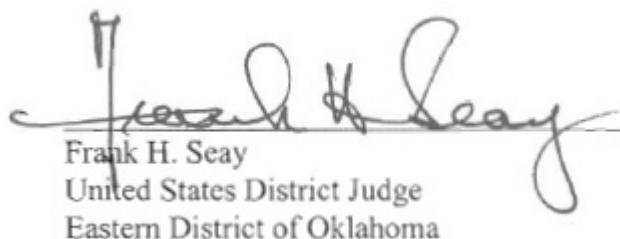
Mack Alford Correctional Facility in Stringtown, Oklahoma, this court's clerk checked the Department of Corrections web site to see where plaintiff was currently housed. The web site revealed plaintiff was currently housed at the Lawton Community Correctional Facility in Lawton, Oklahoma. Upon direction from this court, the court clerk's office called the Lawton facility to see if plaintiff was still incarcerated there. It was informed he was not. In addition, the facility indicated they did not know plaintiff's whereabouts.

It is plaintiff's responsibility to keep this court informed of his current address. A review of the docket sheet shows plaintiff has never filed a change of address with this court. The court has done all it can to find the plaintiff.

Pursuant to Local Rule 7.1 ©, a motion is deemed confessed if plaintiff fails to respond in the time frame allotted. It is undisputed plaintiff failed to respond to these motions. In addition, he failed to respond to the court's order to show cause as to why these motions should not be granted. Accordingly, defendants' Pearson and Jones motions are deemed confessed by plaintiff and are hereby granted.

Accordingly, the defendant Pearson and Jones' motions to dismiss are hereby granted and this case is dismissed in its entirety.

IT IS SO ORDERED this 18th day of September, 2008.



Frank H. Seay
United States District Judge
Eastern District of Oklahoma